

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

WSOU INVESTMENTS, LLC D/B/A  
BRAZOS LICENSING AND  
DEVELOPMENT,

*Plaintiff,*

v.

Canon Inc., and Canon U.S.A., Inc.

*Defendants.*

Canon Inc.,

*Third-Party Plaintiff,*

v.

NXP USA, Inc.

*Third-Party Defendant.*

CIVIL ACTION 6:20-cv-00980-ADA  
CIVIL ACTION 6:20-cv-00981-ADA

CIVIL ACTION 6:20-cv-00980-ADA

**JOINT CLAIM CONSTRUCTION STATEMENT**

Pursuant to the Joint Notice Concerning Agreement to Extend Deadlines filed in the above-captioned cases (*see, e.g.*, Case No. 6:20-cv-00980 at Dkt. 81), the parties hereby provide the following Joint Claim Construction Statement for the terms, phrases, and clauses appearing in the asserted claims of U.S. Patent Nos. 7,054,346 and 7,116,714.

Defendants Canon Inc. and Canon U.S.A., Inc. (collectively, “Canon”) reserve the right to revise their claim constructions, particularly in response to or in consideration of Plaintiff WSOU

Investments, LLC d/b/a Brazos Licensing and Development's ("WSOU's") proposals and positions concerning claim construction, validity, and/or infringement.<sup>1</sup>

**I. LIST OF DISPUTED TERMS FOR CONSTRUCTION**

The Parties provide the following list of disputed terms for construction, in the order they are addressed in the Parties' claim construction briefing.

---

<sup>1</sup> Plaintiff WSOU objects to Canon's reservation of rights to revise its claim constructions and arguments because, and for among other reasons, it violates the Court's scheduling order and undermines the time and effort spent by the Parties expended in briefing their respective positions in attempt to resolve their claim construction disputes.

U.S. Patent No. 7,054,346			
Claim(s)	Claim Term	Plaintiff's Proposed Construction	Defendant's Proposed Construction
Claims 1-4, 7, 9, 11-16, and 19	<p>“a time period T” / “[at least] a portion of the time period T”</p> <p>[proposed by Defendant]</p>	<p>Plain and ordinary meaning; or, if the Court deems a construction is necessary:</p> <p>“a period of time T”/“[at least] a portion of the period of time T”</p>	<p>“T is a pre-set amount of time for one cycle of frequency hopping, which is no greater than the amount of time it would take to use each channel available for frequency hopping once,” otherwise indefinite.</p>
Claims 1-4, 7, 9, 11-16, and 19	<p>“a set of N frequencies”/ “a size of N/F frequencies” / “a set of F frequencies” / “a set of hopping frequencies” / “a hopping set” / “a hopping set to a size of N/F frequencies” / “a hopping set comprising N/F frequencies” / “where N is the total number of frequencies available for frequency hopping”</p> <p>[proposed by Defendant]</p>	<p>Plain and ordinary meaning</p>	<p>N frequencies” / “a set of hopping frequencies” / “a hopping set” are “a pre-configured number of distinct hopping frequencies to which the hopping constraining algorithm is applied and which must not be selected more than once over the time period T,” otherwise indefinite.</p> <p>“a size of F frequencies” / “a set of F frequencies” / “a hopping set to a size of F frequencies” / “a hopping set comprising F frequencies” are “for a time period T, the number of remaining frequencies available for frequency hopping that have not been previously selected during that time period”, otherwise indefinite</p>
Claims 1-4, 7, 9, 11-16, and 19	<p>“at least one of the selected frequencies is prohibited from subsequent selection”</p> <p>[proposed by Defendant]</p>	<p>Plain and ordinary meaning; or, if the Court deems a construction is necessary: “at least one of the selected frequencies is not allowed to be subsequently selected”</p>	<p>“a frequency that has already been used during the time period T is prohibited from being re-used during the remainder of the time period T solely because it has been previously used”</p>

Claims 1-4, 7, 9, 11-16, and 19	“Pseudorandom[ly]” [proposed by Defendant]	Plain and ordinary meaning; or, if the Court deems a construction is necessary: “appears to be patternless”	“a selection generated by an algorithm that approximates a random selection by avoiding a regular pattern of selections when the algorithm is used repeatedly”
<b>U.S. Patent No. 7,116,714</b>			
<b>Claim(s)</b>	<b>Claim Term</b>	<b>Plaintiff’s Proposed Construction</b>	<b>Defendant’s Proposed Construction</b>
1, 6–9, 12, 13	“Corresponding Temporally Predicted Second Encoded Representation” [proposed by Defendant]	Plain and ordinary meaning; or, if the Court deems a construction necessary: “a corresponding second encoded representation produced using another picture as a reference”	“a temporally predicted second encoded representation of the first picture that is associated with the first encoded representation of the first picture by including both encoded representations in a single encoded video”
7, 13	“A video codec” [proposed by Defendant]	Plain and ordinary meaning; or, if the Court deems a construction necessary: “software or hardware component / module that encodes and/or decodes video data”	Preamble is not limiting
8, 13	“A multimedia system” [proposed by Defendant]	Plain and ordinary meaning; or, if the Court deems a construction necessary: “A system that is capable of processing data such as text, audio, images, videos, etc.”	Preamble is not limiting
12	“A portable electronic device” [proposed by Defendant]	Plain and ordinary meaning; or, if the Court deems a construction necessary: “A device that can be easily moved”	Preamble is not limiting
31	“The Encoder Is Arranged To Transmit” [proposed by Defendant]	Plain and ordinary meaning; or, if the Court deems a construction necessary: “the encoder is configured to transmit”	Indefinite OR “circuitry of the encoder causes transmission to a decoder both locally and over a network”
3	“Temporally Prior” [proposed by Defendant]	Plain and ordinary meaning; or, if the Court deems a construction necessary: “preceding in time”	Indefinite.

29, 32	“Said Other Picture” [proposed by Defendant]	Plain and ordinary meaning; or, if the Court deems a construction necessary: “the other picture”	Indefinite OR “said another picture”
--------	---	--	---

December 6, 2021

By: /s/ Jonathan K. Waldrop

Jonathan K. Waldrop (CA Bar No. 297903)  
(Admitted in this District)

[jwaldrop@kasowitz.com](mailto:jwaldrop@kasowitz.com)

Darcy L. Jones (CA Bar No. 309474)  
(Admitted in this District)

[djones@kasowitz.com](mailto:djones@kasowitz.com)

Marcus A. Barber (CA Bar No. 307361)  
(Admitted in this District)

[mbarber@kasowitz.com](mailto:mbarber@kasowitz.com)

John W. Downing (CA Bar No. 252850)  
(Admitted in this District)

[jdowning@kasowitz.com](mailto:jdowning@kasowitz.com)

Heather S. Kim (CA Bar No. 277686)  
(Admitted in this District)

[hkim@kasowitz.com](mailto:hkim@kasowitz.com)

Jack Shaw (CA Bar No. 309382)  
(Admitted in this District)

[jshaw@kasowitz.com](mailto:jshaw@kasowitz.com)

**KASOWITZ BENSON TORRES LLP 333**

Twin Dolphin Drive, Suite 200

Redwood Shores, California 94065

Telephone: (650) 453-5170

Facsimile: (650) 453-5171

Mark D. Siegmund (TX Bar No. 24117055)  
[mark@swclaw.com](mailto:mark@swclaw.com)

**STECKLER WAYNE COCHRAN  
CHERRY PLLC**

8416 Old McGregor Road

Waco, TX 76712

Telephone: (254) 651-3690

Facsimile: (254) 387-4041

**ATTORNEYS FOR PLAINTIFF WSOU  
INVESTMENTS, LLC d/b/a BRAZOS  
LICENSING AND DEVELOPMENT**

/s/ Richard F. Martinelli

---

Richard F. Martinelli (*pro hac vice*)

[rmartinelli@orrick.com](mailto:rmartinelli@orrick.com)

Joseph A. Calvaruso (*pro hac vice*)

[jcalvaruso@orrick.com](mailto:jcalvaruso@orrick.com)

**ORRICK, HERRINGTON & SUTCLIFFE LLP**

51 West 52nd Street

New York, NY 10019-6142

Tel: (212) 506-5000

Fax: (212) 506-5151

John M. Jackson (Texas Bar No. 24002340)

[jjackson@jw.com](mailto:jjackson@jw.com)

**JACKSON WALKER, LLP**

2323 Ross Avenue, Suite 600

Dallas, TX 75201

Tel: (214) 953-6000

Fax: (214) 953-5822

*Attorneys for Defendants Canon Inc. and  
Canon U.S.A., Inc. and Third-Party Plaintiff  
Canon Inc.*

**CERTIFICATE OF SERVICE**

Pursuant to the Federal Rules of Civil Procedure and Local Rule CV-5, I hereby certify that, on December 6, 2021, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system.

/s/ Jonathan K. Waldrop  
**Jonathan K. Waldrop**